

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

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UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONTCLERK
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UNITED STATES OF AMERICA,)

v.)

Case No. 2:19-cr-122-1

SEAN GUILLETTE)

OPINION AND ORDER**ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION,
GRANTING GOVERNMENT'S MOTION TO DISMISS, AND
GRANTING DEFENDANT LEAVE TO FILE AMENDED PETITION**

(Docs. 109, 111, & 114)

This matter came before the court for a review of the Magistrate Judge's April 29, 2024 Report and Recommendation ("R & R") (Doc. 114), in which the Magistrate Judge recommended that the court dismiss Defendant Sean Guillette's 28 U.S.C. § 2255 petition in which she seeks a reduction of her sentence of 188 months imprisonment imposed pursuant to a Fed. R. Crim. P. 11(c)(1)(C) plea agreement. (Doc. 109.) On June 7, 2023, the government filed a motion to dismiss (Doc. 111) and argued that Defendant failed to comply with Rules 2(b)(1) and (2) of the Rules Governing Section 2255 Proceedings, which requires Defendant to "specify all the grounds for relief available" and to "state the facts supporting each ground" for relief. *Id.* Defendant did not file an opposition to the motion to dismiss. No party has filed an objection to the R & R, and the time period to do so has expired.

Defendant is self-represented. The government is represented by Assistant United States Attorneys Nicole P. Cate and Nathanael T. Burris.

A district judge must make a de novo determination of those portions of a magistrate judge's report and recommendation to which an objection is made. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1); *Cullen v. United States*, 194 F.3d 401, 405 (2d Cir. 1999). The district judge may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. § 636(b)(1); *accord Cullen*,

194 F.3d at 405. A district judge, however, is not required to review the factual or legal conclusions of the magistrate judge as to those portions of a reports and recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985).

In his six-page R & R, the Magistrate Judge carefully reviewed the factual allegations, procedural history, and requests for relief set forth in Defendant's § 2255 petition and the government's motion to dismiss and correctly recommended granting dismissal because petition fails to clearly state the grounds for relief she seeks and the facts supporting those grounds. The court agrees with these well-reasoned conclusions and adopts them in full.

CONCLUSION

For the foregoing reasons, the court hereby ADOPTS the Magistrate Judge's R & R (Doc. 114) as the court's Opinion and Order and GRANTS the government's motion to dismiss Defendant's § 2255 petition (Doc. 111).

The court GRANTS Defendant leave to file an amended § 2255 petition within thirty (30) days of the date of the Order.

SO ORDERED.

Dated at Burlington, in the District of Vermont, this 3rd day of June, 2024.



Christina Reiss, District Judge
United States District Court